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OFFICE OF PETITIONS

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|-----------------------------|---|-------------|
| In re Application of | : | |
| Cheol Kim | : | |
| Application 09/254,058 | : | ON PETITION |
| Filed: June 14, 1999 | : | |
| Attorney Docket No. 2016-11 | : | |

This is a decision on the renewed petition under 37 CFR 1.137(b), filed October 9, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to submit a proper response to the non-final Office action mailed October 3, 2003 which set a shortened statutory period for reply of three (3) months. A three month extension of time under 37 CFR 1.136(a) was filed on April 5, 2004. Accordingly, by operation of law, the above-identified application became abandoned on April 6, 2004 (April 3, 2004 was a Saturday).

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(II)(C) and (D). The renewed petition lacks item (3).

The Petition Decision mailed August 16, 2007 notes that a proper statement of unintentional delay, item (3), was missing from the petition filed November 20, 2008. The petition decision specifically set forth the requirements of a proper statement of unintentional delay. The instant renewed petition recites the inventor was unaware his application had gone abandoned and his efforts to track down his "previous patent attorney" Mr. Wan-Hwee Lee and that Mr. Lee was responsible for allowing the application to go abandoned. However, the attorney of record from the filing to this application up through the abandonment of this application was the firm of Warner Norcross & Judd (WNJ). It was the responsibility of WNJ to make sure all responses were timely filed, not the inventor or Mr. Lee.

This renewed petition fails to clearly identify the party having the right to reply to avoid abandonment on April 5, 2004. That party must explain what effort(s) was made to further reply to the outstanding Office action and further, why no reply was filed (see page 3 of the August 16, 2007 petition decision). The renewed petition has no statement from any and all persons then at WNJ and the responsible person(s) having first hand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival (see page 5 of the August 16, 2007 decision).


Further correspondence with respect to this matter should be addressed as follows:

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The centralized facsimile number is **(571) 273-8300**.

Telephone inquiries concerning this decision should be directed to the Carl Friedman at (571) 272-6842.


David Bucci
Petitions Examiner
Office of Petitions